

CALIFORNIA ENERGY COMMISSION

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December 5, 2005

Douglas L. Faulkner
Acting Assistant Secretary
Energy Efficiency and Renewable Energy
United States Department of Energy
Section 327 Petitions, Appliance Efficiency Standards
Forrestal Building
1000 Independence Avenue, SW
Washington, D.C. 20585

Petition to Exempt from Preemption
California's Water Conservation Standards for Residential Clothes Washers:
Your Letter of November 18, 2005

Dear Mr. Faulkner,

On September 16, 2005, DOE received the California Energy Commission's (CEC) petition for exemption from federal preemption of California's water conservation standards for residential clothes washers. As you are aware, DOE's regulations state:

(1) Within fifteen (15) days of the receipt of a petition, the Secretary will either accept it for filing or reject it, and the petitioner will be so notified in writing. The Secretary will serve a copy of this notification on each other party served by the petitioner. Only such petitions which conform to the requirements of [DOE's regulations] and which contain sufficient information for the purposes of a substantive decision will be accepted for filing. Petitions which do not so conform will be rejected and an explanation provided to petitioner in writing.

(2) For purposes of [federal statutory law and DOE's regulations], a petition is deemed to be filed on the date it is accepted for filing.

10 C.F.R. § 430.42(f).

Despite the 15-day deadline, the CEC received no notification in writing until November 18, when you sent me a letter concerning the petition. (For reasons unknown to me, the letter was not received in my office until November 28.) In your November 18 letter, you stated:

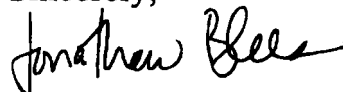
DOE has reviewed the petition, and determined that the regulatory requirements have not been met. The statement required by 10 C.F.R. 430.42(c), on whether “[to the best knowledge of that petitioner] the same or related issue, act or transaction has been or presently is being considered or investigated by any State agency, department, or instrumentality,” was not included in the petition. Please supply DOE with information in writing sufficient to satisfy this filing requirement and DOE will complete its review of your petition and provide you with the notice required under 10 C.F.R. 430.42(f).

The CEC hereby states that to its best knowledge, the same or related issue, act, or transaction has not been and is not presently being considered or investigated by any State agency, department, or instrumentality, other than the CEC’s adoption of the standards described in the petition, and the filing of the petition itself.

In providing “an explanation . . . in writing” of the nonconformity of the CEC’s petition to regulatory and information requirements (10 C.F.R. § 430.42(f)(1)), your November 18 letter listed no “regulatory requirements” that were not met, other than the lack of the statement required by 10 C.F.R. section 430.42(c). Nor did your letter describe any lack of “sufficient information for the purposes of a substantive decision” (10 C.F.R. § 430.42(f)(1)). Therefore, with the provision of the section 430.42(c) statement above, all requirements for a petition have been met, and the CEC anticipates DOE’s very rapid acceptance of the petition for filing and docketing, pursuant to 10 C.F.R. section 430.42(f)-(g).

Thank you for your assistance.

Sincerely,



Jonathan Blees
Assistant Chief Counsel

cc: see next page

cc: CEC:
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